

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:

City of Detroit, Michigan,
Debtor.

Bankruptcy Case No. 13-53846

Judge Thomas J. Tucker

Chapter 9

**CITY OF DETROIT’S *EX PARTE* MOTION FOR AN ORDER
SHORTENING NOTICE AND SCHEDULING AN EXPEDITED HEARING
ON THE CITY OF DETROIT’S MOTION FOR (I) DETERMINATION
THAT COURTNEY D. PAYTON WILLFULLY VIOLATED
THIS COURT’S ORDER GRANTING MOTION TO ENFORCE,
ENTERED AT DOCKET NUMBER 10743, AND
(II) AWARDING COMPENSATORY AND PUNITIVE SANCTIONS**

The City of Detroit (“City”) moves for the entry of an *ex parte* order pursuant to Rules 9006(c)(1) and 9007 of the Federal Rules of Bankruptcy Procedures and Rule 9006-1(b) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Eastern District of Michigan (a) shortening the notice period with respect to the *City of Detroit’s Motion for (I) Determination That Courtney D. Payton Willfully Violated This Court’s Order Granting Motion to Enforce, Entered at Docket Number 10743, and (II) Awarding Compensatory and Punitive Sanctions* (“Motion,” Doc. No. 11894) and (b) scheduling a hearing on the Motion on or before June 7, 2017. In support of this *Ex Parte* Motion, the City respectfully states as follows:

1. Bankruptcy Rule 9006(c)(1) provides that “when an act is required or allowed to be done at or within a specified time by these rules or by a notice given thereunder or by order of court, the court for cause shown may in its discretion with or without motion or notice order the period reduced.” Fed. R. Bankr. P. 9006(c)(1). Local Rule 9006-1(b) further provides that “a party may file a motion for an *ex parte* order reducing or enlarging the time for a party to take any action or file any paper.” E.D. Mich. LBR 9006-1(b).

2. In addition, pursuant to Bankruptcy Rule 9007, “[w]hen notice is to be given under the [Bankruptcy Rules], the court shall designate, if not otherwise specified herein, the time within which, the entities to whom, and the form and manner in which the notice shall be given.” Fed. R. Bankr. P. 9007.

3. Together, these rules provide the Court with the authority to enter an *ex parte* order scheduling a hearing on shortened notice and approve the manner of notice of such hearing.

4. As set forth in the Motion, Payton filed a new complaint in state court in violation of this Court’s Order to Enforce. The Order to Enforce required him to dismiss his claims against the City with prejudice. It also enjoined, barred and estopped Payton from filing this new lawsuit. The City’s response to the new complaint is due on June 8, 2017. Given Payton’s blatant disregard and violation of this Court’s Order to Enforce, the City should not be required to expend the time

and expense required to respond to the new complaint. As such, the City respectfully requests that the Court schedule a hearing on the Motion on or before June 7, 2017.

WHEREFORE, the City respectfully requests that the Court enter an order, substantially in the form attached as Exhibit 1, granting the relief requested in this *Ex Parte* Motion and granting such further relief as the Court deems appropriate.

Dated: June 1, 2017

By: /s/ Marc N. Swanson
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Marc N. Swanson (P71149)
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ATTORNEYS FOR THE CITY OF DETROIT

SUMMARY OF ATTACHMENTS

The following documents are attached to this Motion, labeled in accordance with Local Rule 9014-1(b).

- Exhibit 1 Proposed Form of Order
- Exhibit 2 None [Motion Seeks Ex Parte Relief]
- Exhibit 3 None [Brief Not Required]
- Exhibit 4 Certificate of Service
- Exhibit 5 None [No Affidavits Filed Specific to This Motion]
- Exhibit 6 None [No Documentary Exhibits Filed Specific to This Motion]

EXHIBIT 1

Proposed Order

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:

City of Detroit, Michigan,
Debtor.

Bankruptcy Case No. 13-53846

Judge Thomas J. Tucker

Chapter 9

**ORDER GRANTING CITY OF DETROIT'S
EX PARTE MOTION FOR AN ORDER SHORTENING NOTICE AND
SCHEDULING AN EXPEDITED HEARING**

This case is before the Court on the *City Of Detroit's Ex Parte Motion* (Docket # [____]) *for an Order Shortening Notice and Scheduling an Expedited Hearing on the City of Detroit's Motion for (I) Determination That Courtney D. Payton Willfully Violated This Court's Order Granting Motion to Enforce, Entered at Docket Number 10743, and (II) Awarding Compensatory and Punitive Sanctions* (Docket # 11894). The Court having reviewed the *Ex Parte* Motion and having found that notice of the *Ex Parte* Motion was sufficient under the circumstances; having determined after due deliberation that the relief requested in the *Ex Parte* Motion is in the best interests of the Debtor and its creditors; and good and sufficient cause having been shown;

1. The *Ex Parte* Motion (Docket # [____]) is GRANTED.
2. The Court will hold an expedited hearing on **June 7, 2017, at 1:30 p.m. EDT** on the *City of Detroit's Motion for (I) Determination That Courtney D.*

Payton Willfully Violated This Court's Order Granting Motion to Enforce, Entered at Docket Number 10743, and (II) Awarding Compensatory and Punitive Sanctions (Docket # 9893, the "Motion").

3. Responses to the Motion must be filed ***no later than Monday, June 5, 2017.***

4. The terms and conditions of this Order will be immediately effective and enforceable upon its entry.

5. The City must serve a copy of this Order on the Motion respondents ***no later than today, June 2, 2017, at 12:00 p.m. EDT***, and must file proof of such service no later than June 3, 2017, at 5:00 p.m. EDT. Such service must be by both first class mail and by a method that will cause the receipt by respondents of the served documents today by 5:00 p.m., such as hand-delivery, fax, or e-mail.

EXHIBIT 2

Not Applicable

EXHIBIT 3

Not Applicable

EXHIBIT 4 – CERTIFICATE OF SERVICE

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:

City of Detroit, Michigan,

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Bankruptcy Case No. 13-53846

Honorable Thomas J. Tucker

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on June 1, 2017, he served a copy of the foregoing *City Of Detroit's Ex Parte Motion for an Order Shortening Notice and Scheduling an Expedited Hearing on the City of Detroit's Motion for (I) Determination That Courtney D. Payton Willfully Violated This Court's Order Granting Motion to Enforce, Entered at Docket Number 10743, and (II) Awarding Compensatory and Punitive Sanctions* upon the persons listed below, via electronic mail and first class mail.

Marc J. Mendelson
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Dated: June 1, 2017

By: /s/ Marc N. Swanson

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EXHIBIT 5

Not Applicable

EXHIBIT 6

Not Applicable